

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDDY H. PAULUS, II,

Plaintiff,

v.

Bertrand,

Defendant.

Case No. 1:21-cv-00094-JLT-GSA

ORDER SETTING SETTLEMENT
CONFERENCE AND PARAMETERS AND
SCHEDULING PRE-CONFERENCE
TELEPHONIC DISCUSSION

Settlement Statements due: January 17, 2023
Pre-settlement Conference: January 20, 2023
Settlement Conference: January 27, 2023

Magistrate Judge Helena Barch-Kuchta will hold a settlement conference on **January 27, 2023, at 10:30 a.m.** via video teleconference. The Zoom settlement conference invitation will be distributed the week prior.¹ The court has reserved the entire day for this settlement conference and expects the parties will proceed with the settlement conference in good faith and attempt to resolve all or part of the case. If any party believes that the settlement conference will not be

¹ Any difficulties concerning Zoom video conference, or connecting to the Zoom video conference, shall immediately be reported to Patricia Apodaca, Courtroom Deputy for the Hon. Helena Barch-Kuchta, United States Magistrate Judge, at papodaca@caed.uscourts.gov

1 productive, that party shall so inform the court as far in advance of the settlement conference as
2 possible.

3 Unless otherwise permitted in advance by the court, the following individuals must attend
4 the settlement conference in person: (1) all of the attorney(s) who will try the case; and (2)
5 individuals with full authority to negotiate and settle the case, on any terms. *See* Local Rule
6 270(f). ***Whether the named defendant's attendance will be required will be discussed at the***
7 ***January 20, 2023, Pre-Settlement Telephone Conference.***

8 **No later than January 17, 2023**, each party must submit to Judge Barch-Kuchta's
9 chambers at hbkorders@caed.uscourts.gov or by mail to U.S. District Court, P.O. Box 575,
10 Yosemite National Park, CA 95389, a settlement conference statement. These statements should
11 neither be filed on the docket nor served on any other party.

12 In compliance with Local Rule 270(d)-(e), the settlement statements will be used
13 exclusively for the undersigned to prepare for and conduct the settlement conference. They will
14 not become part of the case file and will be shred thereafter under Local Rule 270(e). If
15 applicable, the statements should be marked "CONFIDENTIAL." *See* Local Rule 270(d).

16 The statements should not exceed ten (10) pages and should include:

17 (1) a brief recitation of the facts;

18 (2) a discussion of the strengths and weaknesses of the case, including the parties' relevant
19 position on the factual and legal issues and brief review of the evidence to support the parties'
20 factual position;

21 (3) an itemized estimate of the expected costs for further discovery, pretrial, and trial
22 matters, in specific dollar terms;

23 (4) your best estimate of the probability that plaintiff will prevail should this case proceed
24 to trial;

25 (5) your best estimate of the damages or relief plaintiff may recover should this case
26 proceed to trial and plaintiff prevail (in specific dollar terms and/or injunctive relief, if
27 applicable);

28 (6) a history of settlement discussions (including a listing of any current settlement offers

1 from any party, in specific dollar terms), a candid statement of your party's current position on
2 settlement, including **the amount that you will give/accept to settle** (in specific dollar terms),
3 and a statement of your expectations for settlement discussions;

4 (7) a list of the individuals who will be attending the settlement on the party's behalf,
5 including names and, if appropriate, titles.

6 At the outset of the settlement conference, the undersigned may call upon the parties'
7 counsel to give a brief (five-minute) opening presentation outlining the factual and legal
8 highlights of their case before the parties break into separate caucuses. The undersigned reserves
9 the right to dispense with the opening presentations of counsel if the undersigned determines that
10 such presentations are not likely to be productive.

11 Notwithstanding the provisions of Federal Rule of Evidence 408, all statements made by
12 the parties relating to the substance or merits of the case, whether written or oral, made for the
13 first time during the settlement conference will be deemed to be confidential and shall not be
14 admissible in evidence for any reason in the trial of the case, should the case not settle. This
15 provision does not preclude admissibility in other contexts, such as pertaining to a motion for
16 sanctions regarding the settlement conference.

17 Judge Barch-Kuchta will hold a short, pre-settlement conference telephone discussion on
18 **January 20, 2023, at 10:30 a.m.** (dial-in number: 1-888-204-5984; passcode: 4446176). Only
19 the lead attorney from each side² should participate. At Judge Barch-Kuchta's discretion, the
20 joint telephonic discussion may be followed by private telephonic discussions between the judge
21 and each party.

22 Dated: January 3, 2023


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE

23
24
25
26
27
28 ² The Court expects that the attorneys participating in the telephone discussion will also participate in the settlement conference.